

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

WEISBROD MATTEIS & COPLEY)
PLLC, as assignees of BRIGGS &)
MORGAN P.A.,)
Plaintiff-Judgment Creditor,)

Case No. 3:15-MC-00013-G

vs.)

MANLEY TOYS LTD.)
Defendant-Judgment Debtor.)

APPLICATION FOR A WRIT OF GARNISHMENT

Pursuant to Federal Rules of Civil Procedure 64 and 69(a), and Tex. Civ. Prac. & Rem. Code Ann. §§ 63.001 *et. seq.*, Weisbrod Matteis and Copley PLLC, (“Judgment Creditor”) respectfully files this Application for a Writ of Garnishment after Judgment against Michaels Stores Procurement Company, Inc. (“Michaels”) as Garnishee:

I.

Judgment Creditor, Weisbrod Matteis and Copley PLLC is a law firm head-quartered at 1200 New Hampshire Avenue NW, Washington D.C. 20036. Judgment Creditor possesses a valid, subsisting judgment entered originally in favor of Briggs and Morgan P.A., and later assigned to Judgment Creditor, against judgment debtor, Manley Toys Ltd. of 8/F Hong Kong Spinners Industrial Building, 818 Cheung Sha Wan Road, Hong Kong (“Judgment Debtor Manley Toys”) in the case captioned *Briggs & Morgan P.A. v. Manley Toys Ltd.*, 0:12-cv-03199 (D. Minn) (the “Judgment”).

Garnishee, Michaels of 8000 Bent Branch Drive Irving, Texas 75063 is a company that procures and distributes products. Michaels is a Delaware Corporation with a location in Irving,

Texas, 75063. Michaels may be served with a writ of garnishment at its location at 8000 Bent Branch Drive Irving, Texas, 75063

Judgment Debtor Manley Toys may be served with notice of the garnishment at its address at 8/F Hong Kong Spinners Industrial Building, 818 Cheung Sha Wan Road, Hong Kong.

II.

Judgment Creditor is the owner and holder of a valid, subsisting and unsatisfied Judgment originally in the amount of \$503,024.03 together with a post-judgment interest rate of .13% per annum. A certified copy of the Judgment is filed along with this application as an attachment to the Declaration of Joshua T. Kluewer, as Exhibit A.

III.

The outstanding Judgment in this matter has not been satisfied. Judgment Debtor Manley Toys has not paid any of the Judgment. The amount remaining unpaid on the Judgment is \$503,024.03 plus interest.

IV.

Judgment Creditor has reason to believe that Garnishee, Michaels possesses property belonging to Judgment Debtor Manley Toys because Garnishee, Michaels has been receiving shipments of products from Judgment Debtor Manley Toys at Michael's Irving, Texas location.

V.

Judgment Creditor is entitled to the issuance of a Writ of Garnishment on the grounds stated in the Declaration of Joshua T. Kluewer, attached hereto as Exhibit 1, and incorporated into this application as though fully set forth herein.

WHEREFORE, Judgment Creditor respectfully requests that a Writ of Garnishment be issued and directed to Garnishee, Michaels; that Judgment Creditor be granted a judgment against Garnishee, Michaels in the amount of the Judgment (including post-judgment interest) rendered and remaining unsatisfied to the extent that Garnishee possesses property of Judgment Debtor Manley Toys, and for such other relief that is just and proper.

Dated: February 13, 2015
Dallas, Texas

Respectfully submitted,

By: /s/ Charles I. Kaplan
Counsel for Judgment-Creditor

Charles I. Kaplan
State Bar No. 11094300
KAPLAN & MOON PLLC
3102 Maple Avenue
Suite 200
Dallas, TX 75201
(214) 522-4900
(888) 632-2752 (fax)
cik@charleskaplanlaw.com (e-mail)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on February 13, 2015 the foregoing document was filed via ECF, with the U.S. District Court, Northern District of Texas. Upon issuance and service of the writ of garnishment on garnishee, a copy of the writ of garnishment, this application and copies of the attached declaration shall be served on Judgment Debtor Manley Toys by first class mail at the following address:

Manley Toys Ltd.
8/F Hong Kong Spinners Industrial Building
818 Cheung Sha Wan Road
Hong Kong

/s/ Charles Kaplan
Counsel for Judgment-Creditor

KAPLAN & MOON PLLC
3102 Maple Avenue,
Suite 200
Dallas, TX 75201
(214) 522-4900

EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

WEISBROD MATTEIS & COPLEY)
PLLC, as assignees of BRIGGS &)
MORGAN P.A.,)
Plaintiff-Judgment Creditor,)
)
)
vs.)
)
MANLEY TOYS LTD.)
Defendant-Judgment Debtor.)

Case No. 3:15-MC-00013-G

DECLARATION OF JOSHUA T. KLUWER

1. My name is Joshua T. Kluewer. I am over the age of eighteen years. I have never been convicted of a felony or a crime of moral turpitude. I have personal knowledge of the facts stated herein and am fully competent and qualified to execute the same.
2. I am an attorney at the law firm of Weisbrod Matteis & Copley PLLC, judgment creditor in the above-captioned action ("Judgment-Creditor").
3. On April 4, 2013 the United States District Court for the District of Minnesota entered judgment (the "Judgment") in favor of Briggs and Morgan P.A. in the amount of \$503,024.03 together with a post-judgment interest rate of .13% per annum against judgment debtor Manley Toys Ltd. ("Judgment Debtor Manley Toys") in the action captioned *Briggs & Morgan P.A. v. Manley Toys Ltd.*, 0:12-cv-03199 (D. Minn). In January 2015, Briggs and Morgan P.A. assigned its right, title and interest in the Judgment to Judgment-Creditor. A true and correct copy of the Assignment Agreement is attached hereto as Exhibit A. The full amount of the judgment plus interest remains unpaid. A true and correct certified copy of the Judgment is attached hereto as Exhibit B. Thus, Judgment Debtor Manley Toys owes Judgment Creditor a debt that is just, due and unpaid.
4. The Judgment remains unpaid. The Judgment is valid and subsisting. Judgment Debtor Manley Toys has not paid any amounts in satisfaction of the judgment.
5. Judgment Debtor Manley Toys is a foreign entity located at 8/F Hong Kong Spinners Industrial Building 818 Cheung Sha Wan Road Hong Kong with no physical presence in the United States. Within my knowledge, Judgment Debtor Manley Toys does not possess property in Texas subject to execution sufficient to satisfy the Judgment. The garnishment applied for is not sought with intent to injure Judgment Debtor Manley Toys or Garnishee Michaels Stores Procurement Company, Inc. ("Michaels").

6. Garnishee Michaels is a company located at 8000 Bent Branch Drive Irving, Texas 75063, which purchases and distributes products. Garnishee has recently received shipments of products at its location in Irving, Texas directly from Judgment Debtor Manley Toys. As such, Garnishee is believed to be in possession of property belonging to Judgment Debtor Manley Toys, including, but not limited to, possible accounts receivable in favor of Judgment Debtor Manley Toys.

7. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed this 13th day of February, 2015.

/s/ Joshua T. Kluewer
Joshua T. Kluewer
Weisbrod Matteis & Copley PLLC
1200 New Hampshire Avenue NW
Suite 600
Washington, D.C. 20036
(202) 499-7916
jkluewer@wmclaw.com

EXHIBIT A

ASSIGNMENT OF JUDGMENT

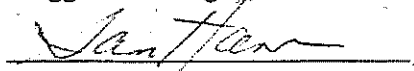
Briggs and Morgan, P.A., of 2200 IDS Center, 80 South Eighth Street, Minneapolis, Minnesota 55402 ("B&M"), in exchange for valuable consideration, receipt of which is acknowledged, paid to it by Weisbrod Matteis & Copley PLLC, of 1200 New Hampshire Avenue NW, Suite 600, Washington, D.C. 20036 ("WMC"), assigns to WMC and its assigns all right, title, and interest in a certain judgment, recovered by it on April 4, 2013 in the matter of *Briggs and Morgan, P.A. v. Manley Toys Limited*, in the United States District Court for the District of Minnesota, case number 12-03199 JRT-JJG, against Manley Toys Limited, for \$503,024.03, including, without limitation, any post-judgment interest thereon.

B&M irrevocably appoints WMC and its assigns as its true and lawful attorney-in-fact, with power of substitution and revocation, for its own use and at its own costs and charges, to demand and receive the above money, take out executions, and take in B&M's name or otherwise all lawful ways and means for the recovery of the money due or to become due on the judgment, and on payment to acknowledge satisfaction of or discharge the same. B&M agrees that it will not collect or receive the same, or any part of the same, nor release or discharge the judgment, but will allow all lawful proceedings in the same.

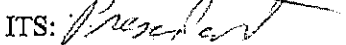
B&M assigns this judgment to WMC "as is," and makes no warranties or representations whatsoever as to the judgment, including, without limitation, as to collectability and/or enforceability of the judgment.


B&M further agrees that the person executing this assignment is authorized to execute this assignment and to bind B&M.

Briggs and Morgan, P.A.



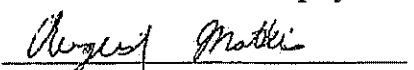
BY:

ITS: 



DATE

Weisbrod Matteis & Copley PLLC



BY: August J. Matteis, Jr.

ITS: Chairman and Chief Executive Officer



DATE

EXHIBIT A

EXHIBIT B

UNITED STATES DISTRICT COURT
District of Minnesota

Briggs and Morgan, P.A.

Plaintiff(s)

V.

Manley Toys Limited

Defendant(s)

JUDGMENT BY DEFAULT

Case Number: 12-3199 JRT/JJG

Affidavit of default, disbursements, identification and non-military service having been filed by plaintiff's attorney, and

It appearing that the above-named defendant(s) has/have been duly served with process, that more than twenty-one (21) days have elapsed since said service, and that said defendant(s) has/have failed to appear or plead in this cause;

Now, on motion of said plaintiff's attorney, a default is hereby entered and it is

CONSIDERED, ORDERED AND ADJUDGED, that the above-named plaintiff(s) does/do have and recover of and from said defendant(s) the sum of Five Hundred Three Thousand Twenty Four Dollars and Three Cents (\$503,024.03).

Judgment signed this 4th day of April, 2013.

RICHARD D. SLETTEN, CLERK

s/A. Linner

(By) A. Linner

Deputy Clerk

Principal/Damages	\$503,024.03
Costs and Disbursements	
Interest to	
Surcharge	
TOTAL JUDGMENT	\$503,024.03

A true printed copy in 1 sheet(s)
of the electronic record filed on 4-4-13
in the United States District Court
for the District of Minnesota.

CERTIFIED, 1-28, 2015.

RICHARD D. SLETTEN

BY: [Signature]

Deputy Clerk

UNITED STATES DISTRICT COURT

for the

District of Minnesota

Briggs and Morgan, P.A.

Plaintiff

v.

Manley Toys Limited

Defendant

Civil Action No. 12cv3199 JRT/JJG

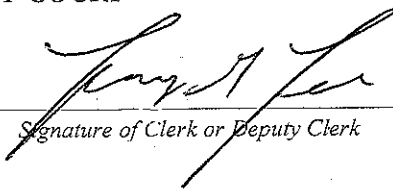
CLERK'S CERTIFICATION OF A JUDGMENT TO BE REGISTERED IN ANOTHER DISTRICT

I certify that the attached judgment is a copy of a judgment entered by this court on *(date)* 4/4/2013.

I also certify that, as appears from this court's records, no motion listed in Fed. R. App. P. 4(a)(4)(A) is pending before this court, the time for appeal has expired, and no appeal has been filed or, if one was filed, it is no longer pending.

Date: January 28, 2015

CLERK OF COURT



Signature of Clerk or Deputy Clerk

EXHIBIT 1

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

WEISBROD MATTEIS & COPLEY)
PLLC, as assignees of BRIGGS &)
MORGAN P.A.,)
Plaintiff-Judgment Creditor,)
)
)
vs.)
)
MANLEY TOYS LTD.)
Defendant-Judgment Debtor.)
)

Case No. 3:15-MC-00013-G

WRIT OF GARNISHMENT AFTER JUDGMENT

**TO: Michaels Stores Procurement Company, Inc.
8000 Bent Branch Drive
Irving, Texas 75063**

GARNISHEE

WHEREAS, on February 13, 2015, Judgment Creditor, Weisbrod Matteis and Copley PLLC ("Judgment Creditor") filed an application for a Writ of Garnishment after judgment in the United States District Court for the Northern District of Texas stating that on April 4, 2013, in the United States District Court for the District of Minnesota, Briggs & Morgan, P.A. recovered against Manley Toys Ltd. a judgment for the sum of \$503,024.03 with interest thereon from April 4, 2013 at the rate of .13% per annum; that said judgment was subsequently assigned to Weisbrod Matteis & Copley PLLC; that said judgment still remains due and unsatisfied, and that the defendant has not within affiant's knowledge, property in its possession, within this State, subject to execution, sufficient to satisfy such judgment; and that the Judgment Creditor has reason to believe, and does believe that Michaels Stores Procurement Company, Inc. a resident of Dallas County, Texas is indebted to the defendant or that it has in its hands effects belonging to the defendant and has applied for a Writ of Garnishment against the said Michaels Stores Procurement Company, Inc.

THEREFORE, YOU ARE HEREBY COMMANDED to be and appear before the United States District Court for the Northern District of Texas, 1100 Commerce Street, Dallas, Texas 75242, at or before 10:00 a.m. on the Monday next following the expiration of twenty days from the date of service hereof, then and there to answer upon oath, what, if anything you are indebted to the said defendant **Manley Toys Ltd.** and were when this writ was served upon you, and what effects, if any, of the said defendant **Manley Toys Ltd.** you have in your possession, and had when this writ was served, and what other persons, if anything within your knowledge, are

indebted to the said defendant **Manley Toys Ltd.** or have effects belonging to said defendant in their possession; YOU ARE FURTHER COMMANDED NOT to pay defendant any debt or to deliver to defendant any effects, pending further orders of this Court.

TO: **MANLEY TOYS LTD**
8/F Hong Kong Spinners Industrial Building
818 Cheung Sha Wan Road
Hong Kong

DEBTOR

YOU ARE HEREBY NOTIFIED that certain properties alleged to be claimed by you have been garnished. If you claim any rights in such property, you are advised:

YOU HAVE A RIGHT TO REGAIN POSSESSION OF THE PROPERTY BY FILING A REPLEVY BOND. YOU HAVE A RIGHT TO SEEK TO REGAIN POSSESSION OF THE PROPERTY BY FILING WITH THE COURT A MOTION TO DISSOLVE THIS WRIT.

HEREIN FAIL NOT, but of this writ make due return as the law directs.

WITNESS my official seal and signature, at my office, in the City of Dallas, Texas **ON THIS THE ____ DAY OF FEBRUARY, 2015.**

CLERK
UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS

By: _____, Deputy

DATE

OFFICER'S RETURN

Received this writ at _____ am/pm on _____, 2015 and executed as follows:

By serving a copy of this Writ of Garnishment, the Application for Writ of Garnishment in this action and attached Declaration on Michaels Stores Procurement Company, Inc. by delivering such documents in person to _____, at the address of its _____, on _____, 2015 at _____ am/pm.

Officer

By _____